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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,770	07/28/2000	Frankie F. Roohparva	400.044US01	3078
7590	10/06/2003		EXAMINER	
Fogg Slifer & Polglaze P A Attn Russell Slifer P O Box 581009 Minneapolis, MN 55458-1009			PEIKARI, BEHZAD	
			ART UNIT	PAPER NUMBER
			2186	
			DATE MAILED: 10/06/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

14

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/627,770	ROOHPARVA, FRANKIE F.
Examiner	Art Unit	
B. James Peikari	2186	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 July 2000.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-27 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 28 July 2000 is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other:

**DETAILED ACTION**

***Drawings***

1. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.

***Specification***

2. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Objections***

3. Claim 11 is objected to because of the following informalities: in line 5, "said" should be inserted between "from" and "buffer". Appropriate correction is required.

Claim 23 is objected to because of the following informalities: In line 2, "with" is confusing. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(a) Throughout claims 1-27 are recited terms such as "copying", "reading" or "writing", with no explanation of what is doing these things. For example, when data is read from the buffer while data is written to the banks – what is reading from the buffer? The processor? And what is writing to the banks? The processor? Or is the data that is being read from the buffer the same data that is simultaneously being written to the banks (i.e., read directly from the buffer into the bank)?

Since the answers to these questions are so critical in determining what prior art must be applied, clarification of these transfer protocols must accompany any response to this Office action.

(b) In claim 1, line 6, "bits" cannot store data – bits *are* data.  
(c) In claim 6, line 9, "bits" cannot store data – bits *are* data.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following rejections are made according to the examiner's best understanding of the claims, in view of the deficiencies noted in section 5 of this Office action.

7. Claims 1-27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Arasawa et al., JP 08221312 A.

Arasawa et al. teach the claimed use of a multi-bank Flash memory with an associated buffer, wherein data may be read out of the buffer simultaneously with data being read into the Flash memory banks. Note the Abstract and Figure 1.

8. Claims 1-27 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Pashley et al., U.S. 6,418,506.

Pashley et al. teach a multi-bank Flash memory with an associated buffer array, wherein data may be read out of the buffer simultaneously with data being read into the Flash memory banks. Note Figures 1 and 2 and column 5, lines 6-18.

If, in the alternative, applicant's claims mean that the processor writes to the banks and the more than one bank is accessed simultaneously, then the following reference is cited:

9. Claims 1-27 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schumann et al., U.S. 5,732,017.

Schumann et al. teach a multi-bank Flash memory with an associated buffer wherein data may be read out of one bank while data is written into another bank. Note Figure 1 and the explanation thereof, especially column 3, lines 66-67.

#### ***Double Patenting***

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claims 1-27 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of copending Application No. 09/628,184. Although the conflicting claims are not identical, they are not patentably distinct from each other because every feature of the claims of the present invention which was either explicitly taught or would have been obvious in view of limitations of claims 1-23 of the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Since these reference appear to be relevant to different interpretations of the claims, applicant is strongly encouraged to consider each of these references prior to filing any response to this Office action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Peikari whose telephone number is (703) 305-3824. The examiner is generally available between 11:00 am and 9:30 pm, EST, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Kim, can be reached at (703) 305-3821.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 746-7239 (Official communications)

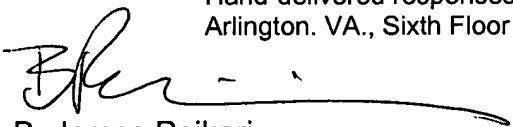
or:

(703) 746-7240 (for Informal or Draft communications)

or:

(703) 746-7238 (for After-Final communications)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

  
B. James Peikari  
Primary Examiner  
Art Unit 2186

September 30, 2003